

AG Contract No. KR02-1960TRN
ADOT ECS File: JPA 02-099
Project: G 1051 09C
Section: Economic Strength Program (ESP)
Grant: Reconstruct 1.8 miles of Biosphere
Road from SR 77 to the Columbia University
Biosphere 2 Center

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
PINAL COUNTY

THIS AGREEMENT is entered into June 24, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the COUNTY OF PINAL, acting by and through its COUNTY COUNCIL (the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The County is empowered by Arizona Revised Statutes Section 11-251, 11-951 et Seq. and 28-7282 et seq. to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.
3. The County has requested Economic Strength Project (ESP) funds in the amount of \$139,947.00; and the Commerce and Economic Development Commission have recommended the approval of such funds for the County, and the Transportation Board has approved the funding, for the reconstruction of improvements to 1.8 miles of Biosphere Road from SR 77 to Columbia University Biosphere 2 Center, to provide improved access, and aid in the retention and development of local business, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26109
Filed with the Secretary of State
Date Filed: 06/24/03
Janice K. Brewer
Secretary of State

By: Darryl D. Greenwald

II. SCOPE OF WORK

1. The County will:

a. Insure the additional commitment of 80.00% of the total estimated Project cost, or \$559,921.00, whichever is more, from the County or other sources (not including ESP funds) to the Project. Accomplish construction of the Project by public bidding, in strict compliance with State procurement laws, rules and regulations. Upon completion, approve and accept the Project on behalf of the County and provide maintenance.

b. No more often than monthly, invoice the State for ESP funds (Arizona Department of Commerce, ATTN: ESP Program Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012), in an amount not to exceed \$139,947.00.

c. Provide the State a copy of the executed Project contract(s), and draw down and expend the State ESP funds no later than twelve (12) months after the effective date of this agreement. Provide the State detailed written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable and appropriate documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended.

d. Reimburse the State any funds received from the State under this agreement, which are not specifically and directly expended in compliance with the ESP grant application, which is attached hereto and made a part hereof, and are subsequently disallowed by the State.

e. Provide the State (Arizona Department of Commerce, ATTN: ESP Program Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85012) with quarterly Project status reports, and one year after completion of the Project, a written Economic Impact Report detailing the direct and indirect impact of the Project, to include jobs created, jobs retained and related data.

2. The State will:

Within thirty (30) days after receipt and approval of the ESP contract(s) and subsequent monthly progress payment invoices, reimburse the County for work completed on the Project funds in an amount not to exceed \$139,947.00.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the Department of Transportation in the Project is to convey economic strength pass through funds for the use and benefit of the County by reason of state law under which funds for the Project are authorized to be expended.

2. The County agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance by the State of any of the provisions of this agreement. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys fees.

3. The total amount of ESP funds expended under this agreement shall not exceed 20.00% of the total Project cost. Should the Project not be completed, be partially completed, or be completed at a lower cost than the advanced amount, or for any other reason should any of these ESP funds not be expended, a proportionate amount of the funds provided under this agreement shall be reimbursed to the State.

4. This agreement shall remain in force and effect until completion of said Project, reimbursement and subsequent reports; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental agency, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party. Further, this agreement may be terminated and the ESP grant cancelled by the State if the County, in the opinion of and by action of the Transportation Board, fails to pursue due diligence on the Project or in the performance of any of the terms of this agreement.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 as regards conflicts of interest on behalf of State employees.

7. The provisions of Arizona Revised Statutes Section 35-214 pertaining to 5-year records retention by the County and audit by the State are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement, except as otherwise specified herein, shall be in writing and shall be delivered in person or sent by mail addressed as follows:

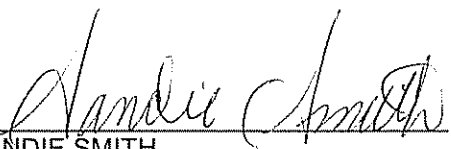
Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

Pinal County
County Manager
P.O. Box 827
Florence, AZ 85232
FAX (520) 868-6512

10. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

PINAL COUNTY


By 
SANDIE SMITH
Chairwoman of the Board of Supervisors

STATE OF ARIZONA

Department of Transportation

By 
DALE BUSKIRK, Acting Division Director
Transportation Planning Division

ATTEST:

By 
STANLEY GRIFFIS
Deputy County Clerk

G: 02-099-TPD-Pinal County-ESP
06March2003

When recorded return to:
Clerk of the Board of Supervisors
Pinal County Board of Supervisors
P. O. Box 827
Florence, AZ 85232

RESOLUTION NO. 052103-JPA 02-099

**RESOLUTION OF THE PINAL COUNTY BOARD OF SUPERVISORS
AUTHORIZING PINAL COUNTY TO ENTER INTO INTERGOVERNMENTAL
AGREEMENT JPA 02-099 WITH THE STATE OF ARIZONA, DEFINING
RESPONSIBILITIES FOR THE IMPROVEMENTS TO BIOSPHERE ROAD
FROM SR77 TO COLUMBIA UNIVERSITY BIOSPHERE 2 CENTER AND
ESTABLISHING PINAL COUNTY'S SHARE OF THE COST OF THE PROJECT
AND THE SHARE OF THE ARIZONA DEPARTMENT OF
TRANSPORTATION, REPRESENTING THE ARIZONA DEPARTMENT OF
COMMERCE.**

WHEREAS, the County is empowered by Arizona Revised Statutes Sections 11-951 et seq. and 28-7282 et seq. to enter into Intergovernmental Agreement JPA 02-099; and,

WHEREAS, the County has requested Economic Strength Project (ESP) funds in the amount not to exceed \$139,947.00, the Commerce and Economic Development Commission has recommended the approval of such funds for the County, and the Transportation Board has approved the funding for the construction of improvements to Biosphere Road to provide improved access and aid in the retention and development of local business, hereinafter referred to as the Project; and,


WHEREAS, it is in the interest of safety and welfare of the public to improve Biosphere Road from SR77 to Columbia University Biosphere 2.

THEREFORE, BE IT RESOLVED, ORDERED, AND DECLARED, that Pinal County is authorized to enter into Intergovernmental Agreement JPA 02-099 with the State of Arizona, by and through its Department of Transportation, for the purpose of defining responsibilities for improving Biosphere Road from SR77 to Columbia University Biosphere 2 and establishing Pinal County's share of the cost of the project at 80% of the total estimated project cost or \$559,921.00 whichever is more and the share of the Arizona Department of Transportation, representing the Arizona Department of Commerce, in the amount not to exceed \$139,947.00.

PASSED AND ADOPTED this 21st day of May,
2003, by the PINAL COUNTY BOARD OF SUPERVISORS.


CHAIRMAN OF THE BOARD

ATTEST:


Deputy CLERK OF THE BOARD

**AGENDA FORM
FOR
PINAL COUNTY BOARD of SUPERVISORS**

CC: Kathy Borquez

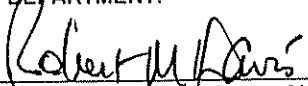
Budgeted: NA
Generates Revenue for County: NA
Revenue Generated: NA
Uses County Funds: Yes
Source of Funds: ESP Grant/Dist 1 Road Tax
Cost to County: 80% of Total Estimated Project Cost
Reduces/Contains: NA
Expenditure Reduced:/Contained: NA

Competitive negotiations (PC1-347 D1) N/A
Two step competitive negotiation (PC1-347 D2) N/A
Review of Qualifications (PC1-347D3) N/A
Multi step sealed bidding (PC1-326) N/A
Intergovernmental Agreement (PC1-1003) JPA 02-099
Competitive sealed proposals RFP (PC1-329) N/A
Expenditures for County: Other (PC1-____) N/A

1. REQUESTED BY:
Fund No: Dept No: 02134 Dept. Name: Public Works Director: Robert M. Davis

2. BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION - Consent Item: Discussion/approval/disapproval of Resolution No. 052103-JPA-02-099 authorizing Pinal County to enter into Intergovernmental Agreement JPA 02-099 with the State of Arizona, by and through its Department of Transportation, authorizing Pinal County to receive Economic Strength Project Funds in the amount not to exceed \$139,947.00 for improvements to Biosphere Road from SR77 to Columbia University Biosphere 2 Center, with the county share of the cost of the improvements being 80% of the total estimated project cost or \$559,921.00, whichever is more. (Robert M. Davis)

3. MOTION: It is moved that the Pinal County Board of Supervisors . . . Approve Resolution No. _____ authorizing Pinal County to enter into Intergovernmental Agreement JPA 02-099 with the State of Arizona, by and through its Department of Transportation, authorizing Pinal County to receive Economic Strength Project Funds in the amount not to exceed \$139,947.00 for improvements to Biosphere Road from SR77 to Columbia University Biosphere 2 Center, with the county share of the cost of the improvements being 80% of the total estimated project cost or \$559,921.00, whichever is more. (Robert M. Davis)

4. DEPARTMENT: Contract #GA0322
 5/5/03
Action recommended by Robert M. Davis, Director Date

7 ASSISTANT COUNTY MANAGER:

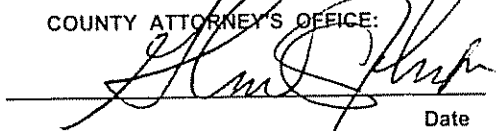
Approve ☐ Disapprove ☐ Date

5. GRANTS AND CONTRACTS ADMINISTRATOR:

Approve ☐ Disapprove ☐ Date

8 PURCHASING DEPARTMENT:

Approve ☐ Disapprove ☐ Date

6. COUNTY ATTORNEY'S OFFICE:
 3/17/03
Date
☒ Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the Pinal County Board of Supervisors.

9. FINANCE OFFICE:

Approve ☐ Disapprove ☐ Date

10. COUNTY MANAGER:
APPROVE ☐ DISAPPROVE ☐ Date

11. BOARD OF SUPERVISORS:
Action Taken: ☐ Approve ☒ Amend ☐ Disapprove ☐ Delete ☐

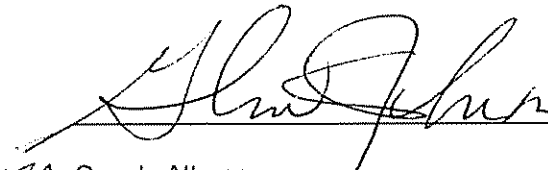
CHAIRMAN:  5-21-03
Date

CLERK OF THE BOARD:  5-21-03
Date

APPROVAL OF THE PINAL COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and PINAL COUNTY and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 17TH day of MARCH, 2003.


DEPUTY County Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-1960TRN (JPA 02-099), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED June 12, 2003.

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
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DATED June 12, 2003.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.